

104TH CONGRESS
1ST SESSION

S. 1460

To amend the Marine Mammal Protection Act of 1972 to support the International Dolphin Conservation Program in the eastern tropical Pacific Ocean, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 7, 1995

Mrs. BOXER (for herself and Mr. BIDEN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Marine Mammal Protection Act of 1972 to support the International Dolphin Conservation Program in the eastern tropical Pacific Ocean, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; REFERENCES.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “International Dolphin Protection and Consumer Infor-
6 mation Act of 1995”.

7 (b) REFERENCES TO MARINE MAMMAL PROTECTION
8 ACT OF 1972.—Except as otherwise expressly provided,

1 whenever in this Act an amendment or repeal is expressed
2 in terms of an amendment to, or repeal of, a section or
3 other provision, the reference shall be considered to be
4 made to a section or other provision of the Marine Mam-
5 mal Protection Act of 1972 (16 U.S.C. 1361 et seq.).

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—The Congress finds the following:

8 (1) The nations that fish for tuna in the east-
9 ern tropical Pacific Ocean have reduced dolphin
10 mortalities associated with that fishery from hun-
11 dreds of thousands annually to fewer than 5,000 an-
12 nually.

13 (2) The provisions of the Marine Mammal Pro-
14 tection Act of 1972 that impose a ban on imports
15 from nations that fish for tuna in the eastern tropi-
16 cal Pacific Ocean have served as an incentive to re-
17 duce dolphin mortalities.

18 (3) Consumers of the United States and Eu-
19 rope have made clear their preference for tuna that
20 has not been caught through the killing, chasing, or
21 harming of dolphins.

22 (4) Tuna canners and processors of the United
23 States have led the canning and processing industry
24 in promoting a dolphin-safe tuna market.

1 (5) The 12 signatory nations to the Declaration
2 of Panama, including the United States, agreed
3 under that Declaration to require that the total an-
4 nual dolphin mortality in the purse seine fishery for
5 yellowfin tuna in the eastern tropical Pacific Ocean
6 not exceed 5,000, with a commitment and objective
7 to progressively reduce dolphin mortality to a level
8 approaching zero through the setting of annual lim-
9 its.

10 (b) PURPOSES.—The purposes of this Act are—

11 (1) to recognize that nations fishing for tuna in
12 the eastern tropical Pacific Ocean have achieved sig-
13 nificant reductions in dolphin mortality associated
14 with that fishery; and

15 (2) to eliminate the ban on imports of dolphin-
16 safe tuna from those nations.

17 **SEC. 3. DEFINITIONS.**

18 Section 3 (16 U.S.C. 1362) is amended by adding
19 at the end the following new paragraphs:

20 “(28) The term ‘International Dolphin Con-
21 servation Program’ means the international program
22 established by the agreement signed in La Jolla,
23 California, in June 1992, as formalized, modified,
24 and enhanced in accordance with the Declaration of
25 Panama, that requires—

1 “(A)(i) that the total annual dolphin mor-
2 tality in the purse seine fishery for yellowfin
3 tuna in the eastern tropical Pacific Ocean be
4 limited to 5,000; and

5 “(ii) a commitment and objective to pro-
6 gressively reduce dolphin mortality to a level
7 approaching zero through the setting of annual
8 limits;

9 “(B) the establishment of a per stock per
10 year mortality limit of dolphin at a level be-
11 tween 0.2 percent and 0.1 percent of the mini-
12 mum population estimate to be in effect
13 through 2001;

14 “(C) beginning with the calendar year
15 2001, the establishment of a per stock per year
16 mortality limit of dolphin at a level less than or
17 equal to 0.1 percent of the minimum population
18 estimate;

19 “(D) that if a mortality limit is exceeded
20 under—

21 “(i) subparagraph (A), all sets on dol-
22 phins shall cease for the applicable fishing
23 year; and

24 “(ii) subparagraph (B) or (C), all sets
25 on the stocks covered under subparagraph

1 (B) or (C) and any mixed schools that con-
2 tain any of those stocks shall cease for the
3 applicable fishing year;

4 “(E) a scientific review and assessment to
5 be conducted in 1998 to—

6 “(i) assess progress in meeting the ob-
7 jectives set for 2,000 under subparagraph
8 (B); and

9 “(ii) as appropriate, consider rec-
10 ommendations for meeting these objectives;

11 “(F) a scientific review and assessment to
12 be conducted—

13 “(i) to review the stocks covered
14 under subparagraph (C); and

15 “(ii) as appropriate, consider rec-
16 ommendations to further the objectives set
17 under that subparagraph;

18 “(G) the establishment of a per vessel
19 maximum annual dolphin mortality limit con-
20 sistent with the applicable per year mortality
21 caps, as determined under subparagraphs (A)
22 through (C); and

23 “(H) the provision of a system of incen-
24 tives to vessel captains to continue to reduce

1 dolphin mortality, with the goal of eliminating
 2 dolphin mortality.

3 “(29) The term ‘Declaration of Panama’ means
 4 the declaration signed in Panama City, Republic of
 5 Panama, on October 4, 1995.”.

6 **SEC. 4. AMENDMENTS TO TITLE I.**

7 (a) Section 101(a)(2) (16 U.S.C. 1371(a)(2)) is
 8 amended—

9 (1) in the first sentence, by inserting “, and au-
 10 thorizations may be granted under title III with re-
 11 spect to yellowfin tuna fishery of the eastern tropical
 12 Pacific Ocean, subject to regulations prescribed
 13 under that title by the Secretary without regard to
 14 section 103” before the period; and

15 (2) in the second sentence, by striking the semi-
 16 colon and all that follows through “practicable”.

17 (b) Section 101(a)(2)(B) (16 U.S.C. 1371(a)(2)(B))
 18 is amended to read as follows:

19 “(B) in the case of yellowfin tuna har-
 20 vested with purse seine nets in the eastern trop-
 21 ical Pacific Ocean, and products therefrom, to
 22 be exported to the United States, shall require
 23 that the government of the exporting nation
 24 provide documentary evidence that—

1 “(i) the tuna or products therefrom
2 were not banned from importation under
3 this paragraph before the effective date of
4 the International Dolphin Protection and
5 Consumer Information Act of 1995; or

6 “(ii) the tuna or products therefrom
7 were harvested after the effective date of
8 the International Dolphin Protection and
9 Consumer Information Act of 1995 by ves-
10 sels of a nation that—

11 “(I) is a member of the Inter-
12 American Tropical Tuna Commission;
13 and

14 “(II) is participating in the
15 International Dolphin Conservation
16 Program; and

17 “(III) has implemented the obli-
18 gations of that member as a member
19 of the Inter-American Tropical Tuna
20 Commission; and

21 “(iii) the total dolphin mortality per-
22 mitted under the International Dolphin
23 Conservation Program will not exceed
24 5,000 in 1996, or in any year thereafter
25 and the total dolphin mortality limit for

1 each vessel in each successive year shall be
2 reduced by a statistically significant
3 amount until the goal of zero mortality is
4 reached, except that the per stock per year
5 mortality limits for stocks designated as
6 depleted under this Act shall not exceed
7 the actual 1994 mortality level;
8 except that the Secretary shall not accept such
9 documentary evidence as satisfactory proof for
10 purposes of clauses (i) through (iii) if the gov-
11 ernment of the harvesting nation does not au-
12 thorize the Inter-American Tropical Tuna Com-
13 mission to release sufficient information to the
14 Secretary to allow a determination of compli-
15 ance with the International Dolphin Conserva-
16 tion Program, or if after taking into consider-
17 ation that information, findings of the Inter-
18 American Tropical Tuna Commission, and any
19 other relevant information, including informa-
20 tion that a nation is consistently failing to take
21 enforcement actions on violations currently
22 specified in the agreement signed in La Jolla,
23 California, in June 1992 and adopted by the
24 International Dolphin Conservation Program,
25 the Secretary, in consultation with the Sec-

1 retary of State, shall find that the violations di-
2 minish the effectiveness of the International
3 Dolphin Conservation Program and that the
4 harvesting nation is not in compliance with the
5 International Dolphin Conservation Program;”.

6 (c) Section 101 (16 U.S.C. 1371) is amended by add-
7 ing at the end the following new subsection:

8 “(d) The provisions of this Act shall not apply to a
9 citizen of the United States when such citizen incidentally
10 takes any marine mammal during fishing operations out-
11 side the United States exclusive economic zone, as that
12 term is defined in section 3(6) of the Magnuson Fishery
13 Conservation and Management Act (16 U.S.C. 1802(6))
14 when employed on a foreign fishing vessel of a harvesting
15 nation that is in compliance with the International Dol-
16 phin Conservation Program.”.

17 (d) Section 104(h) is amended to read as follows:

18 “(h)(1) Consistent with the regulations prescribed
19 pursuant to section 103 and consistent with the require-
20 ments of section 101, the Secretary may issue an annual
21 permit to a United States vessel for the taking of such
22 marine mammals, together with regulations to cover the
23 use of any such annual permits.

24 “(2) Such annual permits for the incidental taking
25 of marine mammals in the course of commercial purse

1 seine fishing for yellowfin tuna in the eastern tropical Pa-
 2 cific Ocean shall be governed by section 304, subject to
 3 the regulations issued pursuant to section 302.”.

4 (e) Section 110(a) (16 U.S.C. 1380(a)) is amended—

5 (1) by striking “(a)(1) The Secretary” and in-
 6 serting “(a) The Secretary”; and

7 (2) by striking paragraph (2).

8 (f) Section 901(d)(1) of the Dolphin Protection
 9 Consumer Information Act (16 U.S.C. 1385(d)(1)) is
 10 amended to read as follows:

11 “(1) It is a violation of section 5 of the Federal
 12 Trade Commission Act (15 U.S.C. 45) for any pro-
 13 ducer, importer, exporter, distributor, or seller of
 14 any tuna product that is exported from or offered
 15 for sale in the United States to include on the label
 16 of that product the term ‘Dolphin Safe’ or any other
 17 term or symbol that falsely claims or suggests that
 18 the tuna contained in the product was harvested
 19 using a method of fishing that is not harmful to dol-
 20 phins if the product contains—

21 “(A) tuna harvested on the high seas by a
 22 vessel engaged in driftnet fishing;

23 “(B) tuna harvested in the eastern tropical
 24 Pacific Ocean by a vessel using purse seine nets

1 which do not meet the requirements of being
2 considered dolphin safe under paragraph (2); or

3 “(C) tuna harvested outside the eastern
4 tropical Pacific Ocean by a vessel using purse
5 seine nets which do not meet the requirements
6 for being considered dolphin safe under para-
7 graph (3).”.

8 (g) Section 901(d) of the Dolphin Protection
9 Consumer Information Act (16 U.S.C. 1385(d)) is amend-
10 ed by adding at the end the following new paragraphs:

11 “(3) For purposes of paragraph (1)(C), tuna or
12 a tuna product that contains tuna harvested outside
13 the eastern tropical Pacific Ocean by a fishing vessel
14 using purse seine nets is dolphin safe if—

15 “(A) it is accompanied by a written state-
16 ment executed by the captain of the vessel cer-
17 tifying that no purse seine net was intentionally
18 deployed on or to encircle dolphins during the
19 particular voyage on which the tuna was har-
20 vested; or

21 “(B) in any fishery in which the Secretary
22 has determined that a regular and significant
23 association occurs between marine mammals
24 and tuna, it is accompanied by a written state-
25 ment executed by the captain of the vessel and

1 an observer, certifying that no purse seine net
 2 was intentionally deployed on or to encircle ma-
 3 rine mammals during the particular voyage on
 4 which the tuna was harvested.

5 “(4) No tuna product may be labeled with any
 6 reference to dolphins, porpoises, or marine mam-
 7 mals, except as dolphin safe in accordance with this
 8 subsection.”.

9 (h) Section 901(f) of the Dolphin Protection
 10 Consumer Information Act (16 U.S.C. 1385(f)) is amend-
 11 ed to read as follows:

12 “(f) The Secretary, in consultation with the Secretary
 13 of the Treasury, shall issue regulations to implement this
 14 section, not later than 3 months after the effective date
 15 of the International Dolphin Protection and Consumer In-
 16 formation Act of 1995.”.

17 **SEC. 5. AMENDMENTS TO TITLE III.**

18 (a) The heading of title III is amended to read as
 19 follows:

20 **“TITLE III—INTERNATIONAL**
 21 **DOLPHIN CONSERVATION**
 22 **PROGRAM”.**

23 (b) Section 301 (16 U.S.C. 1411) is amended—

24 (1) in subsection (a), by striking paragraph (4)
 25 and inserting the following:

1 “(4) Nations harvesting yellowfin tuna in the
2 eastern tropical Pacific Ocean have demonstrated
3 their willingness to participate in appropriate multi-
4 lateral agreements to reduce, and eventually elimi-
5 nate, dolphin mortality in that fishery. Recognition
6 of the International Dolphin Conservation Program
7 will ensure that the existing trend of reduced dol-
8 phin mortality continues, that individual stocks of
9 dolphins are adequately protected, and that the goal
10 of eliminating all dolphin mortality continues to be
11 a priority.”; and

12 (2) in subsection (b), by striking paragraphs
13 (2) and (3) and inserting the following:

14 “(2) support the International Dolphin Con-
15 servation Program and efforts within the Program
16 to reduce, and eventually eliminate, the mortality re-
17 ferred to in paragraph (1);

18 “(3) ensure that the market of the United
19 States does not act as an incentive to the harvest of
20 tuna caught with driftnets, or caught by deploying
21 purse seine nets on or to encircle dolphins, in the
22 eastern tropical Pacific Ocean not operating in com-
23 pliance with the International Dolphin Conservation
24 Program;”.

1 (c) Section 302 (16 U.S.C. 1412) is amended to read
2 as follows:

3 **“SEC. 302. AUTHORITY OF THE SECRETARY.**

4 “(a) REGULATIONS.—(1) The Secretary shall issue
5 regulations to implement the International Dolphin Con-
6 servation Program.

7 “(2)(A) Not later than 3 months after the effective
8 date of the International Dolphin Protection and
9 Consumer Information Act of 1995, consistent with sec-
10 tion 101, the Secretary shall issue regulations to authorize
11 and govern the incidental taking of marine mammals in
12 the eastern tropical Pacific Ocean by vessels of the United
13 States participating in the International Dolphin Con-
14 servation Program.

15 “(B) The regulations issued under this section shall
16 include provisions—

17 “(i) requiring observers on each vessel;

18 “(ii) requiring the use of the backdown proce-
19 dure or other procedures that are equally or more
20 effective in avoiding mortality of marine mammals in
21 fishing operations;

22 “(iii) prohibiting intentional set on stocks and
23 schools in accordance with the International Dolphin
24 Conservation Program;

1 “(iv) requiring the use of special equipment, in-
2 cluding dolphin safety panels in nets, operable rafts,
3 speedboats with towing bridles, floodlights in oper-
4 able condition, and diving masks and snorkels;

5 “(v) ensuring that the backdown procedure dur-
6 ing sets of purse seine net on marine mammals is
7 completed and rolling of the net to sack up has
8 begun no later than 30 minutes after sundown;

9 “(vi) banning the use of explosive devices in all
10 purse seine operations;

11 “(vii) establishing per vessel maximum annual
12 dolphin mortality limits, total dolphin mortality lim-
13 its and per stock per year mortality limits subject to
14 section 101 in accordance with the International
15 Dolphin Conservation Program;

16 “(viii) preventing the making of intentional sets
17 on dolphins after reaching either the vessel maxi-
18 mum annual dolphin mortality limits, total dolphin
19 mortality limits, or per stock per year mortality
20 limit;

21 “(ix) preventing the encirclement with purse
22 seine nets on dolphins by a vessel without an as-
23 signed vessel dolphin mortality limit;

24 “(x) allowing for the authorization and conduct
25 of experimental fishing operations, under such terms

1 and conditions as the Secretary may prescribe, for
2 the purpose of testing proposed improvements in
3 fishing techniques and equipment that may reduce
4 or eliminate dolphin mortality or that do not require
5 the encirclement of dolphins in the course of com-
6 mercial yellowfin tuna fishing; and

7 “(xi) containing such other restrictions and re-
8 quirements as the Secretary determines are nec-
9 essary to implement the International Dolphin Con-
10 servation Program with respect to the vessels of the
11 United States;

12 except that the Secretary may make such adjustments as
13 may be appropriate to provisions that pertain to fishing
14 gear and fishing practice requirements in order to carry
15 out the International Dolphin Conservation Program.

16 “(b) CONSULTATION.—In developing a regulation
17 under this section, the Secretary shall consult with the
18 Secretary of State, the Marine Mammal Commission, and
19 the United States Commissioners to the Inter-American
20 Tropical Tuna Commission appointed under section 3 of
21 the Tuna Conventions Act of 1950 (16 U.S.C. 952).

22 “(c) EMERGENCY REGULATIONS.—(1) If the Sec-
23 retary determines, on the basis of the best scientific infor-
24 mation available (including scientific information obtained
25 under the International Dolphin Conservation Program)

1 that the incidental mortality and serious injury of marine
2 mammals authorized under this title is having, or is likely
3 to have, a significant adverse effect on a marine mammal
4 stock or species, the Secretary shall take the following ac-
5 tions:

6 “(A) Notify the Inter-American Tropical Tuna
7 Commission of the findings of the Secretary, and in-
8 clude in that notification recommendations to the
9 Commission concerning actions necessary to reduce
10 incidental mortality and serious injury and mitigate
11 such adverse impact.

12 “(B) Prescribe emergency regulations to reduce
13 incidental mortality and serious injury and mitigate
14 such adverse impact.

15 “(2) Prior to taking action under subparagraph (A)
16 or (B) of paragraph (1), the Secretary shall consult with
17 the Secretary of State, the Marine Mammal Commission,
18 and the United States Commissioners to the Inter-Amer-
19 ican Tropical Tuna Commission appointed under section
20 3 of the Tuna Conventions Act of 1950 (16 U.S.C. 952).

21 “(3) Emergency regulations prescribed under this
22 subsection—

23 “(A) shall be published in the Federal Register,
24 together with an explanation thereof;

1 “(B) shall remain in effect for the duration of
2 the applicable fishing year; and

3 “(C) may be terminated by the Secretary at an
4 earlier date by publication in the Federal Register of
5 a notice of termination, if the Secretary determines
6 that the reasons for the emergency action no longer
7 exist.

8 “(4) If the Secretary finds that the incidental mortal-
9 ity and serious injury of marine mammals in the yellowfin
10 tuna fishery in the eastern tropical Pacific Ocean is con-
11 tinuing to have a significant adverse impact on a stock
12 or species, the Secretary may extend the emergency regu-
13 lations for such additional periods as may be necessary.

14 “(d) RESEARCH.—(1) The Secretary may, in co-
15 operation with the nations participating in the Inter-
16 national Dolphin Conservation Program and with the
17 Inter-American Tropical Tuna Commission, undertake or
18 support appropriate scientific research to further the goals
19 of the International Dolphin Conservation Program, in-
20 cluding—

21 “(A) devising cost-effective fishing methods and
22 gear so as to reduce, with the goal of eliminating,
23 the incidental mortality and serious injury of marine
24 mammals in connection with commercial purse seine
25 fishing in the eastern tropical Pacific Ocean;

1 “(B) developing cost-effective methods of fish-
2 ing for mature yellowfin tuna without setting nets
3 on dolphins or other marine mammals; and

4 “(C) carrying out a scientific research program
5 (as described in section 117) for those marine mam-
6 mal species and stocks taken in the purse seine fish-
7 ery for yellowfin tuna in the eastern tropical Pacific
8 Ocean, including species or stocks that are not with-
9 in waters under the jurisdiction of the United
10 States.

11 “(2) The Secretary, acting through the National Ma-
12 rine Fisheries Service, shall undertake a research program
13 to—

14 “(A) determine the effect of harassment by
15 chase and encirclement on the health and biology of
16 dolphins and the impact of that harassment on dol-
17 phin populations encircled by purse seine nets in the
18 course of fishing for yellowfin tuna in the eastern
19 tropical Pacific Ocean; and

20 “(B) the extent to which the incidental take of
21 nontarget species, including juvenile tuna, occurs
22 when fishing for yellowfin tuna using dolphin-safe
23 methods including fish aggregation devices, the im-
24 pact of that incidental take on tuna stocks, and
25 where such methods are occurring in international

1 waters, the exclusive economic zone of any nation, or
2 coastal waters.

3 “(3)(A) Not later than 3 years after the date of en-
4 actment of the International Dolphin Protection and
5 Consumer Information Act of 1995, the Secretary shall
6 submit a report to the Congress on the results of the re-
7 search program conducted under paragraph (2).

8 “(B) The Secretary shall include in the report sub-
9 mitted to the Congress under this paragraph any rec-
10 ommendations made on the basis of the results of the re-
11 search program conducted under paragraph (2) that the
12 Secretary considers to be appropriate concerning—

13 “(i) legislation to address issues that the Sec-
14 retary determines to be relevant to the results of the
15 research program; and

16 “(ii) changes to the International Dolphin Con-
17 servation Program.

18 “(4) There are authorized to be appropriated to the
19 Department of Commerce \$1,000,000 to be used by the
20 Secretary, acting through the National Marine Fisheries
21 Service, to carry out paragraph (2).”.

22 (d) Title III (16 U.S.C. 1411) et seq. is amended—

23 (1) by striking sections 303 and 304;

24 (2) by inserting after section 302 the following:

1 **“SEC. 303. REPORTS BY THE SECRETARY.**

2 “Notwithstanding section 103(f), the Secretary shall
3 annually submit to the Congress a report that includes—

4 “(1) results of research conducted pursuant to
5 section 320;

6 “(2) a description of the status and trends of
7 stocks of tuna;

8 “(3) a description of the efforts to assess,
9 avoid, reduce, and minimize the bycatch of juvenile
10 yellowfin tuna and bycatch of nontarget species;

11 “(4) a description of the activities of the Inter-
12 national Dolphin Conservation Program and of the
13 efforts of the United States in support of the goals
14 and objectives of the International Dolphin Con-
15 servation Program, including the protection of dol-
16 phin populations in the eastern tropical Pacific
17 Ocean, and an assessment of the effectiveness of the
18 Program;

19 “(5) actions taken by the Secretary under the
20 matter following clause (iii) of section 101(a)(2)(B);

21 “(6) copies of any relevant resolutions and deci-
22 sions of the Inter-American Tropical Tuna Commis-
23 sion, and any regulations promulgated by the Sec-
24 retary under this title; and

25 “(7) any other information that the Secretary
26 considers to be relevant.”;

1 (3) by striking sections 305 and 306;

2 (4) by inserting after section 303 the following:

3 **“SEC. 304. PERMITS.**

4 “(a) IN GENERAL.—(1) In a manner consistent with
5 the regulations issued pursuant to section 302, the Sec-
6 retary shall issue a permit to a vessel of the United States
7 authorizing participation in the International Dolphin
8 Conservation Program and the Secretary may require a
9 permit for the person actually in charge of and controlling
10 the fishing operation of the vessel. The Secretary shall
11 prescribe such procedures as are necessary to carry out
12 this subsection, including requiring the submission of—

13 “(A) the name and official number or other
14 identification of each fishing vessel for which a per-
15 mit is sought together with the name and address of
16 the owner thereof; and

17 “(B) the tonnage, hold capacity, speed, process-
18 ing equipment, and type and quantity of gear, in-
19 cluding an inventory of special equipment required
20 under section 302, with respect to each fishing ves-
21 sel.

22 “(2) The Secretary may charge a fee for granting an
23 authorization and issuing a permit under this section. The
24 level of fees charged under this paragraph may not exceed
25 the administrative cost incurred in granting an authoriza-

1 tion and issuing a permit. Fees collected under this para-
 2 graph shall be available to the Under Secretary of Com-
 3 merce for Oceans and Atmosphere for expenses incurred
 4 in granting authorizations and issuing permits under this
 5 section.

6 “(3) After the effective date of the International Dol-
 7 phin Protection and Consumer Information Act of 1995,
 8 no vessel of the United States shall encircle dolphins with
 9 purse seine nets in the course of fishing for yellowfin tuna
 10 fishery in the eastern tropical Pacific Ocean without a
 11 valid permit issued under this section.

12 “(b) PERMIT SANCTIONS.—(1) In any case in
 13 which—

14 “(A) a vessel for which a permit has been is-
 15 sued under this section has been used in the com-
 16 mission in an act prohibited under section 305;

17 “(B) the owner or operator of any such vessel
 18 or any other person who has applied for or been is-
 19 sued a permit under this section has acted in viola-
 20 tion of section 305; or

21 “(C) any civil penalty or criminal fine imposed
 22 on a vessel, owner or operator of a vessel as provided
 23 for under the International Dolphin Conservation
 24 Program, or other person who has applied for or

1 been issued a permit under this section has not been
2 paid or is overdue, the Secretary may—

3 “(i) revoke any permit with respect to such
4 vessel, with or without prejudice to the issuance
5 of subsequent permits;

6 “(ii) suspend a permit referred to in clause
7 (i) for a period of time the Secretary considers
8 to be appropriate;

9 “(iii) deny a permit referred to in clause
10 (i); or

11 “(iv) impose additional conditions or re-
12 strictions on any permit issued to, or applied
13 for by, any such vessel or person under this sec-
14 tion.

15 “(2) In imposing a sanction under this subsection,
16 the Secretary shall take into account—

17 “(A) the nature, circumstances, extent, and
18 gravity of the prohibited acts for which the sanction
19 is imposed; and

20 “(B) with respect to the violator, the degree of
21 culpability, and history of prior offenses, and other
22 such matters as justice requires.

23 “(3) Transfer of ownership of a vessel, by sale or oth-
24 erwise, shall not extinguish any permit sanction that is
25 in effect or is pending at the time of transfer of ownership.

1 Before executing the transfer of ownership of a vessel, by
 2 sale or otherwise, the owner shall disclose in writing to
 3 the prospective transferee the existence of any permit
 4 sanction that will be in effect or pending with respect to
 5 the vessel at the time of transfer.

6 “(4) In the case of any permit that is suspended for
 7 the failure to pay a civil penalty or criminal fine, the Sec-
 8 retary shall reinstate the permit upon payment of the pen-
 9 alty or fine and any accrued interest on that penalty or
 10 fine at the prevailing rate (as determined by the Sec-
 11 retary).

12 “(5) No sanctions shall be imposed under this section
 13 unless there has been a prior opportunity for a hearing
 14 on the facts underlying the violation for which the sanction
 15 is imposed, either in conjunction with a civil penalty pro-
 16 ceeding under this title or otherwise.”;

17 (5) by redesignating section 307 as section 305;

18 (6) in section 305, as so redesignated—

19 (A) in subsection (a)—

20 (i) by striking paragraph (1) and in-
 21 serting the following:

22 “(1) for any person to sell, purchase, offer for
 23 sale, transport, or ship, in the United States, any
 24 tuna or tuna product unless the tuna or tuna prod-
 25 uct is dolphin-safe (as defined in section 901(d) of

the Dolphin Protection Consumer Information Act
(16 U.S.C. 1385(d))) and has been harvested in
compliance with the International Dolphin Conserva-
tion Program by a nation that is a member of the
Inter-American Tropical Tuna Commission;”;

(ii) by striking paragraphs (2) and (3)

and inserting the following:

“(2) except as provided for in section 101(d),
for any person or vessel subject to the jurisdiction
of the United States to set intentionally a purse
seine net on or to encircle any marine mammal in
the course of tuna fishing operations in the eastern
tropical Pacific Ocean, except in accordance with
this title and regulations issued pursuant to this
title;” and

“(3) for any person to import any yellowfin
tuna or yellowfin tuna product or any other fish or
fish product in violation of a ban on importation im-
posed under section 101;” and

(B) in subsection (b)(2), by inserting

“(a)(5) or” before “(a)(6)”;

(7) by redesignating section 308 as section 306;

and

(8) in section 306, as so redesignated, by strik-
ing “section 303” and inserting “section 302(d)”.

1 (e) CLERICAL AMENDMENT.—The table of contents
 2 in the first section of the Marine Mammal Protection Act
 3 of 1972 is amended by striking the items relating to title
 4 III and inserting the following:

“TITLE III—INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

“Sec. 301. Finding and policy.

“Sec. 302. Authority of the Secretary.

“Sec. 303. Reports by the Secretary.

“Sec. 304. Permits.

“Sec. 305. Prohibitions.

“Sec. 306. Authorization of appropriations.”.

5 **SEC. 6. AMENDMENTS TO THE TUNA CONVENTIONS ACT OF**
 6 **1950.**

7 (a) Section 3(c) of the Tuna Conventions Act of 1950
 8 (16 U.S.C. 952(c)) is amended to read as follows:

9 “(c) at least one shall be the Director, or an appro-
 10 priate regional director, of the National Marine Fisheries
 11 Service; and”.

12 (b) Section 4 of the Tuna Conventions Act of 1950
 13 (16 U.S.C. 953) is amended to read as follows:

14 **“SEC. 4. GENERAL ADVISORY COMMITTEE AND SCIENTIFIC**
 15 **ADVISORY SUBCOMMITTEE.**

16 “(1)(A) The Secretary, in consultation with the
 17 United States Commissioners, shall appoint a committee
 18 to be known as the ‘General Advisory Committee’. The
 19 General Advisory Committee shall be composed of not less
 20 than 5 and not more than 15 individuals and shall have
 21 balanced representation from the various groups partici-

1 pating in the fisheries included under the conventions, and
2 from nongovernmental conservation organizations.

3 “(B) The General Advisory Committee shall be in-
4 vited to have representatives attend all nonexecutive meet-
5 ings of the United States sections and shall be given full
6 opportunity to examine and to be heard on all proposed
7 programs of investigations, reports, recommendations, and
8 regulations of the Commission. The General Advisory
9 Committee may attend any meeting of an international
10 commission on the invitation of that commission.

11 “(2)(A) The Secretary, in consultation with the
12 United States Commissioners, shall appoint a subcommit-
13 tee to be known as the ‘Scientific Advisory Subcommittee’.
14 The Scientific Advisory Subcommittee shall be composed
15 of not less than 5 and not more than 15 qualified sci-
16 entists and shall have balanced representation from the
17 public and private sectors, including nongovernmental con-
18 servation organizations. The Scientific Advisory Sub-
19 committee shall advise the General Advisory Committee
20 and the Commissioners on matters relating to the con-
21 servation of ecosystems, the sustainable uses of living ma-
22 rine resources related to the tuna fishery in the eastern
23 Pacific Ocean, and the long-term conservation and man-
24 agement of stocks of living marine resources in the eastern
25 tropical Pacific Ocean.

1 “(B) In addition to carrying out the duties specified,
2 the Scientific Advisory Subcommittee shall, as requested
3 by the General Advisory Committee, the United States
4 Commissioners or the Secretary, perform functions and
5 provide assistance required by formal agreements entered
6 into by the United States for this fishery, including the
7 International Dolphin Conservation Program. The func-
8 tions referred to in the preceding sentence may include—

9 “(i) the review of data from the International
10 Dolphin Conservation Program, including data re-
11 ceived from the Inter-American Tropical Tuna Com-
12 mission;

13 “(ii) recommendations concerning research
14 needs, including ecosystems, fishing practices, and
15 gear technology research (including the development
16 and use of selective, environmentally safe and cost-
17 effective fishing gear), and the coordination and fa-
18 cilitation of such research;

19 “(iii) recommendations concerning scientific re-
20 views and assessments required under the Inter-
21 national Dolphin Conservation Program, and engag-
22 ing, as appropriate, in such reviews and assess-
23 ments;

24 “(iv) consulting with other experts as needed;
25 and

1 “(v) recommending measures to ensure the reg-
2 ular and timely full exchange of data among the par-
3 ties to the International Dolphin Conservation Pro-
4 gram and the national scientific advisory committee
5 of each country that participates in the program (or
6 its equivalent entity of that country).

7 “(3) The Secretary, in consultation with the United
8 States Commissioners, shall establish procedures to pro-
9 vide for appropriate public participation and public meet-
10 ings and to provide for the confidentiality of confidential
11 business data. The Scientific Advisory Subcommittee shall
12 be invited to have representatives attend all nonexecutive
13 meetings of the United States sections and the General
14 Advisory Subcommittee and shall be given full opportunity
15 to examine and to be heard on all proposed programs of
16 scientific investigation, scientific reports, and scientific
17 recommendations of the Commission. Representatives of
18 the Scientific Advisory Subcommittee may attend meet-
19 ings of the Inter-American Tropical Tuna Commission in
20 accordance with the rules of such Commission.

21 “(4)(A) The Secretary, in consultation with the
22 United States Commissioners, shall fix the terms of office
23 of the members of the General Advisory Committee and
24 the Scientific Advisory Subcommittee.

1 “(B) Each member of the General Advisory Commit-
 2 tee and the Scientific Advisory Subcommittee who is not
 3 an officer or employee of the Federal Government shall
 4 serve without compensation.

5 “(C) The General Advisory Committee and the Sci-
 6 entific Advisory Subcommittee shall be exempt from the
 7 Federal Advisory Committee Act (5 U.S.C. App.).”.

8 **SEC. 7. EFFECTIVE DATE.**

9 This Act and the amendments made by this Act shall
 10 become effective upon—

11 (1) a certification by the Secretary of State to
 12 the Congress that a binding resolution of the Inter-
 13 American Tropical Tuna Commission, or other le-
 14 gally binding instrument, establishing the Inter-
 15 national Dolphin Conservation Program has been
 16 adopted by each nation participating in the Inter-
 17 national Dolphin Conservation Program and is in ef-
 18 fect; and

19 (2) the promulgation of final regulations under
 20 section 302(a).

○

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